

[By E. Scott Reckard and Walter Hamilton](#)

Visa Inc. and MasterCard Inc. agreed late Friday to pay retailers \$6 billion to settle a price-fixing lawsuit that alleged they overcharged companies billions of dollars in credit-card transaction fees.

The agreement is believed to be the largest settlement ever of a private antitrust case, according to lawyers for 7 million American merchants who sued the card companies in 2005. The total value of the agreement is \$7.25 billion, counting a temporary reduction in card fees.

The deal is a big victory for retailers, which have long chafed at having to pay "swipe" fees of 2% or more every time a consumer uses a credit card to buy anything from a pair of flip-flops to a pickup truck.

The effect on consumers, especially in California, is less clear.

Some analysts worried that the settlement could lead to higher costs for millions of Americans.

Visa and MasterCard agreed for the first time to allow merchants to pass along credit-card charges to consumers instead of having to shoulder them themselves. That could eliminate any incentive for merchants to give discounts to buyers who pay in cash.

California law prohibits so-called credit-card surcharges, but analysts worried that retailers would raise prices across the board to avoid getting stuck with the card fees.

"It's a terrible thing for consumers," said Linda Sherry, a spokeswoman for the advocacy group Consumer Action. "It will make it very hard for consumers to know whether merchants are simply passing along their credit-card costs or whether they're using this as a new profit center."

Other experts said the settlement could benefit consumers by reshaping the way Americans pay for goods and services.

It could create a two-tiered pricing system in which merchants try to attract customers by offering one price to those who pay with credit cards but a slightly discounted price for cash payments. California has long allowed merchants to offer cash discounts. Many gas stations offer such a discount, and some believe it could catch on in other sectors.

Merchants may use any savings they reap to reduce prices in hope of attracting customers who have slashed their spending in the troubled economy.

"This will bring fundamental changes," said Brian Sozzi, chief equities analysts at Decoding Wall Street, a research firm in New York. "It makes you wonder a little more if you want to whip out the plastic. Maybe people will go to the ATM and use cash like they did 35 years ago."

One of the first plaintiffs in the class-action lawsuit was Mitch Goldstone, who owns Irvine photography shop ScanMyPhotos.com. Such corporate giants as supermarket operator Kroger Co., drugstore chain Rite-Aid Corp. and Payless ShoeSource joined later.

The dispute involves the processing charges, also known as interchange or swipe fees, that merchants pay when they process credit-card purchases, generating more than \$40 billion a year for banks. The price-fixing lawsuit, filed in 2005, alleged that Visa and MasterCard conspired to raise the fees to benefit themselves and the banks.

Swipe fees have stirred enormous controversy, with critics saying the card companies and major banks vastly overcharge for what is essentially a routine and low-cost computerized transaction.

"Credit card companies and big banks have been overreaching for years on swipe fees simply because they could," said Rep. Peter Welch (D-Vt.). "With no one watching, they have been

charging the highest fees in the world and running up billions of dollars in profits on the backs of small businesses and their customers."

In a survey of 1,514 consumers released this week by Morgan Stanley, 76% said they were likely to switch to a debit card, cash or check rather than pay 1% to 2% extra for using a credit card, and 43% considered themselves "very likely" to do so.

The study noted, however, that many investors in card companies have been unconcerned about the prospect of surcharges, believing "that merchants would find it difficult to implement the practice given the friction and service issues it causes."

Even after announcing their settlement, the credit-card companies and plaintiffs' lawyers continued to spar about its effect on consumers.

Martin R. Lueck, chairman of the executive board at Robins, Kaplan, Miller & Ciresi, a lead lawyer in the giant class-action suit, portrayed it as helping average Americans.

"In my view it's very much pro-consumer," he said. "In the past, there was a prohibition against even disclosing the amount of this hidden tax. There was no ability [for a consumer] to choose a cheaper form of payment."

Visa and MasterCard, on the other hand, said the settlement could raise the cost of using credit cards for many consumers after years in which their spending has slumped and at a time when the economy's recovery from recession is slow.

The overhaul of regulations after the financial crisis already has cut in half the allowable swipe fees when debit cards are used.